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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEDISIM, LTD

Plaintiff - Counterdefendant

v.

BESTMED, LLC

Defendant - Counterclaimant

Civil Action No.: 10-cv-2463 (SAS) (RLE)

**DEFENDANT BESTMED, LLC'S
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

NOTICE IS HEREBY GIVEN that, BestMed, LLC will hereby and does move before the Honorable Judge Scheindlin, Judge of the United States District Court for the Southern District of New York, at a time and place to be scheduled by this Court, for an order granting BestMed, LLC's Motion for Summary Judgment that there is no genuine issue as to any material fact, and that BestMed, LLC is entitled to judgment as a matter of law that:

- 1) BestMed, LLC is Not Liable for Unfair Competition or False Designation under 15 U.S.C. §1125(a);

- 2) BestMed, LLC is Not Liable for Unfair Competition under New York Common Law;
- 3) BestMed, LLC is Not Liable for False Advertising under 15 U.S.C. §1125(a);
- 4) BestMed, LLC is Not Liable for False Advertising under N.Y. Gen. Bus. Law §350;
- 5) BestMed, LLC is Not Liable for Deceptive Acts and Practices under N.Y. Gen Bus. Law §349;
- 6) BestMed, LLC is Not Liable for Unjust Enrichment under New York Common Law;
- 7) Medisim, Ltd. is Not Entitled to Attorney's Fees for Any Alleged Infringement of its Copyright;
- 8) Medisim, Ltd. is Not Entitled to Reasonable Royalties for the Provisional Rights Period;
- 9) U.S. Patent No. 7,597,668 is Invalid for Lack of Enablement;
- 10) BestMed, LLC Does Not Infringe U.S. Patent No. 7,597,668; and
- 11) Any further relief as this Court may deem just, proper, and equitable.

This Motion is based on BestMed, LLC's Memorandum of Law in Support of its Motion for Summary Judgment, BestMed, LLC's Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1, the Declaration of Carl E. Jennison, and the Declaration of Brian R. Michalek with all exhibits thereto submitted concurrently.

Respectfully submitted,

Dated: August 10, 2012

By: /s/ Joseph M. Kuo
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 10, 2012, a copy of the foregoing **DEFENDANT BESTMED, LLC'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT** was electronically filed with the Court via ECF which thereby served an e-mail notice upon the attorneys listed below:

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